

June 17, 2013

Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th St SW
Washington, DC 20554

Notice of *Ex Parte* presentation in: Implementation of Pay Telephone Reclassification and Compensation Provisions, CC Docket No. 96-128, WC Docket No. 12-375; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268; Comment Sought on the Technological Transition of the Nation's Communications Infrastructure, GN Docket No. 12-353; Promoting Interoperability in the 700 MHz Commercial Spectrum, WT Docket No. 12-69; Comment Sought on 2010 Media Ownership Review Proceeding, MB Docket No. 09-182; Regulatory Review of the Commission's Broadcast Ownership Rules and Other Rules, MB 06-121; Connect America Fund, WT 13-56; Modernizing Broadband Data Collection, WC Docket No. 11-10.

Dear Ms. Dortch:

On June 13th representatives of the Public Interest Spectrum Coalition met with Acting FCC Chairwoman Mignon Clyburn and members of her staff to discuss a number of issues. Present at the meeting were: Gigi Sohn, Harold Feld & Leigh Barnwell, Public Knowledge; Sarah Morris, Open Technology Institute, New America Foundation; Amina Fazlullah, Benton Foundation; Jessica González & Randy Abreu, National Hispanic Media Coalition; Delara Derakhshani & Reggie Nubine, Consumers Union; Andrew Jay Schwartzman; Jaime Schuster, Common Cause; Matt Wood & Lauren Wilson, Free Press; Steven Renderos, Center for Media Justice (via phone); and Acting Chairwoman Mignon Clyburn and her staff members Dave Grimaldi, Louis Peraertz, Royce Sherlock, Rebekah Goodheart, Dorothy Terry, Keenan Adamchak, Julie Thompson, and Vanya Bilyeu.

Prison Phone Justice

In this proceeding, PISC representative Steven Renderos urged the Commission to move forward in response to the Wright petition, submitted more than a decade ago, which seeks to lower telephone rates for phone calls between prison inmates and their families. Renderos noted that rates for a 15 minute phone call range from \$10-\$16 in more than twelve states, and reported that the Center for Media Justice (on behalf of the Media Action Grassroots Network and Campaign for Prison Phone Justice) has submitted comments and more than 1800 handwritten letters to the Commission describing the enormous economic impact of these high costs on families and the surrounding communities. Renderos also noted that the at the state level regulation has made calls between inmates and their families more frequent and more affordable; for instance, in South Carolina regulation has caused rates for a 15-minute call to drop from \$5 to \$0.99. PISC urged the Commission to move forward to issue an Order on this matter as soon as possible.

Media Ownership

PISC representative Andrew Jay Schwartzman advised Acting Chairwoman Clyburn to move forward on the broadcast ownership proceeding during her tenure, if possible, in order to resolve the issue before the new Chair takes office. Schwartzman urged the Commission to conclude that there is not sufficient evidence to show that relaxing the rules on newspaper/broadcast cross-ownership is in the public interest, and thus no changes to those rules should be made at this time. In addition, the upcoming incentive auction has the potential to dramatically change the landscape for media ownership. Relaxing ownership rules would also encourage speculation in broadcast licenses, which could increase the prices demanded by broadcast licensees to relinquish their spectrum rights and thus might reduce the total revenue to the Treasury.

It therefore makes sense to conclude what has now become a ten-year review and begin fresh with the next Quadrennial Review, scheduled for next year.

Lifeline and E-Rate

PISC representative Jessica González urged the Commission not to transfer the cost savings realized in the Lifeline program to fund an expansion of E-Rate. Lifeline is currently underutilized by eligible users according to a GAO study from 2011, and González emphasized the importance of maintaining the funds in Lifeline to preserve support for eligible households to keep them from either being cut from the program or prevented from using it in the future. The attendees also expressed concerns that moving the Lifeline costs savings to the E-Rate program could cripple Lifeline going forward. PISC representatives also suggested that the Commission continue to explore possibility of extending the Lifeline program to include broadband at some point in the future, ensuring that students would have access both to robust broadband in their schools and to affordable broadband in their homes.

Data Caps

PISC representative Harold Feld asked the Commission to issue a Notice of Inquiry into the use of broadband data caps, in particular examining how these caps are set and the economic rationales that underlie them. This issue is growing increasingly urgent with the retirement of copper and the elimination of uncapped DSL on Fire Island, NY, leaving only significantly capped mobile wireless provision. On the NJ Barrier Island, residents have lost the choice of uncapped DSL and may only select capped broadband as offered by Comcast.

The Commission must clarify the role of caps, and how they impact accessibility and the Internet ecosystem generally. ISPs' rationales offered in support of data caps are not at all consistent. Supporters refer to the practice as "usage based," but it is not a pay-as-you-go plan and consumers are not refunded for any unused capacity. Cable operators have offered price discrimination rationales, but of the wireline cable providers, only Time Warner Cable appears to offer a price-discriminated plan with an unlimited option and a discount for accepting a capacity limit – with an option to buy more. AT&T and Verizon have argued that capacity issues in wireless system require bandwidth caps, but they appear to be in negotiation to allow ESPN to pay the overages of ESPN subscribers – essentially sanctioning the types of uses that they claim cause congestion.

Indeed, so poorly understood is the economics and use of data caps by broadband providers that it is impossible to tell precisely what providers impose data caps, what kind of data caps are imposed, how they are maintained and evaluated, or their impact on broadband usage and adoption. PISC believes that a sufficient number of questions exist to justify a Notice of Inquiry to better understand the diversity of practices and assess their overall economic impact on the broadband ecosystem.

Broadband Data

PISC representative Matt Wood expressed serious concern about the direction of plans to collect data on broadband deployment and subscription, and the Commission's hesitancy to meet the recommendations made in the National Broadband Plan. PISC is troubled to hear that the new data collection plans would provide less granular data than NTIA currently collects, would not collect data on pricing, and would not make that data available to third parties for research purposes. Wood argued that proceeding with data collection in this way could set a problematic precedent and undermine attempts to carry out more robust data collection in the future. PISC representative Jessica González also noted the tremendous benefits of collecting data at the census block level (as noted in a proposal previously submitted by Free Press), which would allow the Commission or third-party researchers to overlay data on broadband penetration with data on income levels and racial and ethnic identity to better understand access in communities of color.

700 MHz Interoperability

PISC representative Harold Feld urged the commission to complete the rulemaking on 700 MHz interoperability, which has dragged out far too long. Concluding the rulemaking on interoperability will be crucial to promoting competition in the marketplace and allowing smaller carriers to remain viable. This is particularly true in light of the pending transactions between AT&T and Verizon, which will further consolidate the 700 MHz band.

No other country has adopted the least interest in adopting the same 700 MHz band plan as the United States (and with excellent reason). There will therefore be no global equipment market to drive manufacture of interoperable equipment. Without demand for interoperable equipment from the two largest carriers (which will only occur with a rule or merger condition requiring interoperability), there is simply an insufficient market to interest manufacturers in interoperable equipment for the American market. Accordingly, Public Knowledge argued that the Commission must not grant the AT&T/Verizon 700 MHz transfers absent an interoperability rule or merger condition.

Hate Speech in Media

Finally, the National Hispanic Media Coalition urged the Commission to respond to its petition for an inquiry on hate speech and media, which has been on file since 2009, and open a docket for public comment.

In accordance with Section 1.1206(b), this letter is being filed with your office. If you have any further questions, please contact me at (202) 861-0020.

Respectfully submitted,
/s/ Leigh Barnwell
Law Clerk
Public Knowledge

cc:
Mignon Clyburn
Dave Grimaldi
Louis Peraertz
Royce Sherlock
Rebekah Goodheart
Dorothy Terry
Keenan Adamchak
Julie Thompson
Vanya Bilyeu